

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-5-19
Served 5/21/96

Issued by the Department of Transportation
on the 15th day of May, 1996

Agreement adopted by the Tariff :
Coordinating Conferences of the : **Docket** OST-95-602
International Air Transport Association : R-1 through R-9
relating to passenger fare construction :
rules :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (Code), and Part 303 of the Department's regulations. The agreement was adopted at the IATA Composite Passenger Tariff Coordinating Conference held in Montreal during August 1-4, 1995. ^{1/}

The agreement adopts new principles for normal (first, business [intermediate] and economy class) fare constructions, and is intended to complete the shift to the "pricing unit" concept, already in place for special promotional or discount fares. ^{2/}

The new rules attempt to reconcile the two different pricing approaches being used by computer reservations systems (CRSs) to calculate normal fares with multiple segments for international journeys. Some CRSs use the traditional "journey" concept which treats the fare for a multiple segment itinerary as a single unit, and applies various fare checks to prevent the constructed through fare from undercutting fares between individual points along the itinerary. Some CRSs use a more innovative "pricing unit" concept, which separates the multi-segment journey into several pricing units, as if selling separate tickets for each, and then adds them together on one ticket to see whether the total produces a lower fare that can be quoted to the customer. Still others use a mixture of the two concepts, depending upon the itinerary involved.

^{1/} IATA memorandum COMP Reso/P 1063, as amended by memorandum COMP Reso/P 1072.

^{2/} See Order 95-7-47, July 28, 1996.

These inconsistencies in pricing among the various systems have caused much confusion, with the same itinerary on the same carrier being priced differently by different CRSs. Yet, a carrier marketing air

transportation through several CRSs, must have each CRS quote the same fare level for the same itinerary. ^{3/}

The new rules allow a multi-segment normal fare for an international journey to be calculated as either a single pricing unit, in much the same manner as the traditional journey approach, or as a combination of several "stand alone" pricing units. The amount quoted will be the lower of the two prices resulting from the calculations.

However, unlike the approach taken for discount fares, the proposed resolutions continue to apply many of the traditional fare controls, such as the higher intermediate point check, to each pricing unit, although not to the whole journey. Notwithstanding the retention of the traditional fare controls, the new system will produce lower normal fare quotes for passengers in certain instances. For example, in cases where the journey concept would subject the passenger to a surcharge for excess mileage circuitry, the pricing unit concept breaks this circuitous itinerary into several segments. None of the segments would be surcharged for mileage circuitry and their sum would be less than the fare under the old journey concept. ^{4/}

^{3/} The new fare construction rules proposed for normal fares incorporate, without change, the pricing unit standards for discount fare constructions approved last year in Order 95-7-47. If approved, these new fare construction rules will replace all the old fare construction rules, set forth in Resolutions 014a, 024j, 024h, 150, 151a, and the 152 series, which will be canceled. These new rules will then govern all IATA normal and special fare constructions throughout the world, and will become the basis for programming all CRSs. Carriers, however, will still be able to issue their own instructions to CRSs.

^{4/} Under the journey concept, the price for normal economy fare transportation over a Chicago-London-Frankfurt-Manchester itinerary is \$1647.80 since the actual mileage flown exceeds the maximum permitted Chicago-Manchester mileage by 6 percent, resulting in a 10 percent surcharge to the unrestricted \$1498 Chicago-Manchester fare for the excess mileage. Under the pricing unit concept, however, the total price for the trip is

We have decided to approve the agreement, subject, where applicable, to conditions that we have previously imposed, and to the conditions we impose below.^{5/} Based on our review of the information submitted and other relevant material, we conclude that the agreement, as conditioned, will not result in fares that are unlawful or injurious to competition in the markets at issue. For the small number of normal fare passengers whose travel involves multiple segment itineraries, the new rules will, in certain instances, produce lower fares. On the other hand, the continued application of the traditional fare checks to each pricing unit in an itinerary leaves passengers no worse off.

We will attach conditions to our approval of Resolutions 017c and 017f.

Resolution 017c (Construction Rules for Fare Components) contains certain provisions, previously set forth in Resolution 152a, relating to the purchase of fares for travel between foreign points. These provisions subject fares purchased outside the country of travel origin to a "directional minimum fare check". Under this check, passengers must pay the highest fare in either direction, regardless of their actual direction of travel. To ensure that U.S. customers can secure the same foreign-to-foreign fares available to passengers who purchase their tickets in the country where travel originates, the Department conditioned Resolution 152a to provide that, for sales in the United States and its territories of fares between foreign points, the fares to be charged should be based on the passenger's actual direction of travel.^{6/}

Similarly, Resolution 017f (Reroutings and Refunds) contains rules, previously part of Resolution 152f, which could subject a passenger who reroutes voluntarily in mid journey to paying a total price for the revised itinerary that exceeds the charge for the same travel had it been purchased and ticketed at the passenger's point of

the sum of the local Chicago-London restricted fare of \$788 plus the local London-Frankfurt-Manchester fare of \$570.33 for a total of \$1358.33, \$289.47 less than that under the journey concept.

^{5/} Many of the conditions we have imposed on IATA's Resolution 001 (Permanent Effectiveness Resolution) are particularly relevant. These include practices relating to the assessment of penalties for voluntary cancellations (Order 73-6-51); currency procedures for refunds and reroutings in foreign air transportation (Order 77-2-22); combination of fares in foreign air transportation (Order 82-2-130); and advertising and sales restrictions on fares (Orders 78-7-113, 85-3-79 and 86-7-67).

^{6/} See Order 89-7-52, July 31, 1989.

origin. In Order 77-2-68, February 14, 1977, the Civil Aeronautics Board (CAB) noted that the IATA carriers had not demonstrated why a passenger should pay more for a revised routing than would have been paid had the revised itinerary been chosen in the first place. Accordingly, it conditioned its approval of the relevant resolution to require that in cases where a rerouting results in a change of fare, the fare shall be recalculated upon the basis of that which would have been applicable had the passenger purchased transportation for the revised itinerary prior to departure from the point of origin. We will attach the same condition to our approval of Resolution 017f.

Acting under Title 49 of the United States Code (the Code), and particularly sections 40101, 40103, 41300 and 41309:

1. We do not find the following resolutions, which are incorporated in the agreement in Docket OST-95-602 as indicated and which have either direct or indirect application in foreign air transportation as defined by the Code, to be adverse to the public interest or in violation of the Code, provided that approval is subject, where applicable, to conditions previously imposed and to those imposed herein:

Docket	IATA		Title	Application
OST-95-602	No			
R-1	002cc	Special Amending Resolution		1;2;3;1/2; 2/3;3/1;1/2/3
R-2	002dd	Special Tie-in Resolution (Weight System)		1;2;3;1/2; 2/3;3/1;1/2/3
R-3	012	Glossary of Terms		1;2;3;1/2; 2/3;3/1;1/2/3
R-4	017a	Construction Rules for Journeys		1;2;3;1/2; 2/3;3/1;1/2/3
R-5	017b	Construction Rules for Pricing Units		1;2;3;1/2; 2/3;3/1;1/2/3
R-6	017c	Construction Rules for Fare Components		1;2;3;1/2; 2/3;3/1;1/2/3

Provided that: Approval of Resolution 017c (Construction Rules for Fare Components) is subject to the condition that, for the sale in the United States and U.S. territories of fares between foreign points, the fares to be charged shall be based on the actual direction of travel.

R-7	017d	Minimum Check for Consecutive Normal Fare Pricing Units	1;2;3;1/2; 2/3;3/1;1/2/3
R-8	017e	Mixed Class	1;2;3;1/2; 2/3;3/1;1/2/3
R-9	017f	Reroutings and Refunds	1;2;3;1/2; 2/3;3/1;1/2/3

Provided that: Approval of Resolution 017f (Reroutings and Refunds) is subject to the condition that in the event a rerouting under this resolution results in a change of fare, the applicable fare shall be calculated upon the basis of that which would have been applicable had the passenger purchased transportation for the revised itinerary (which includes those points for which transportation has already been completed) prior to departure from point of origin.

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless approved on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, the conferral of antitrust immunity is mandatory under Title 49 of the United States Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-95-602, as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed and to those conditions imposed therein.

ACCORDINGLY,

1. We approve and grant antitrust immunity to the agreement contained in Docket OST-95-602, as set forth in finding paragraph one above, subject, where applicable, to conditions previously imposed and to those conditions imposed therein.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(Seal)

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